

ENTERED

October 10, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ARCHIE BELL ANDERSON,	§	
SPN #01572294,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-18-3205
	§	
179TH DISTRICT COURT FOR	§	
HARRIS COUNTY, TEXAS,	§	
	§	
Defendant.	§	

MEMORANDUM OPINION AND ORDER

The plaintiff, Archie Bell Anderson (SPN #01572294), is currently in custody as a pretrial detainee at the Harris County Jail. Anderson has filed a Prisoner Civil Rights Complaint under 42 U.S.C. § 1983 ("Complaint") (Docket Entry No. 1) concerning the state court criminal proceedings against him. Anderson has also filed an Application to Proceed Without Prepayment of Fees (Docket Entry No. 2). Because Anderson is in custody, the court is required to scrutinize the claims and dismiss the Complaint, in whole or in part, if it determines that the Complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted" or "seeks monetary relief from a defendant who is immune from such relief." 28 U.S.C. § 1915A(b). After considering all of the pleadings, the court concludes that this case must be dismissed for the reasons explained below.

I. Background

Anderson has been in custody at the Harris County Jail (the "Jail") since May of 2018, following his arrest on criminal charges for "family violence."¹ Public records clarify that Anderson has been charged with assault in Cause No. 158863601010, which is pending against him in the 179th District Court for Harris County, Texas.² Anderson has provided what appears to be a hand-written copy of his indictment in that case, detailing allegations that he assaulted the complainant, with whom he had a dating relationship, by impeding the complainant's breathing or circulation by applying pressure to her throat or neck, and by striking the complainant with his hand.³

Invoking 42 U.S.C. § 1983, Anderson sues the 179th District Court or the state court judge who is presiding over his criminal case.⁴ Anderson asks this court to intervene and dismiss the assault case against him or, alternatively, reinstate his release on probation.⁵

¹Complaint, Docket Entry No. 1, p. 1.

²See Harris County Sheriff's Office, Jail Information, located at: <http://www.harriscountyso.org> (last visited Oct. 9, 2018). These records show that Anderson also faces charges for possession of a controlled substance in Cause No. 157692701010. See id.

³[Handwritten Copy of] Indictment, Docket Entry No. 5, pp. 1-2.

⁴Complaint, Docket Entry No. 1, pp. 1, 4.

⁵Id. at 4.

II. Discussion

The civil rights Complaint filed by Anderson plainly asks this court to intervene in an ongoing state criminal proceeding. Under the well-established doctrine set out in Younger v. Harris, 91 S. Ct. 746, 750-51 (1971), federal courts cannot interfere in ongoing state criminal proceedings unless extraordinary circumstances are present. See Gates v. Strain, 885 F.3d 874, 880 (5th Cir. 2018). Anderson does not allege facts showing that extraordinary circumstances are present here or that federal intervention is otherwise warranted. Therefore, this case will be dismissed for failure to state a claim upon which relief may be granted under 42 U.S.C. § 1983.

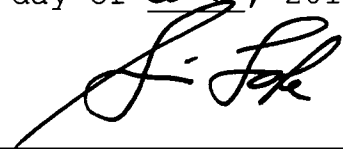
III. Conclusion and Order

Based on the foregoing, the court **ORDERS** as follows:

1. The Application to Proceed in District Court Without Prepaying Fees or Costs (Docket Entry No. 2) is **GRANTED**.
2. Officials at the Harris County Jail are directed to deduct the filing fee for indigent litigants (\$350.00) from the Inmate Trust Fund account of Archie Bell Anderson (SPN #01572294), in periodic installments pursuant to 28 U.S.C. § 1915(b), and forward those funds to the Clerk of Court until the entire fee is paid.
3. The Prisoner Civil Rights Complaint filed by Anderson under 42 U.S.C. § 1983 (Docket Entry No. 1) is **DISMISSED with prejudice**.
4. The dismissal will count as a strike for purposes of 28 U.S.C. § 1915(g).

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the plaintiff. The Clerk will also provide a copy of this order by regular or electronic mail to: (1) the Harris County Jail Inmate Trust Fund, Attn: Tom Katz, 1200 Baker Street, Houston, Texas, 77002, at fax: 713-755-4546; and (2) the Three Strikes List at Three_Strikes@txs.uscourts.gov.

SIGNED at Houston, Texas, on this 10th day of October, 2018.

A handwritten signature in black ink, appearing to read "Sim Lake", written over a horizontal line.

SIM LAKE
UNITED STATES DISTRICT JUDGE